

**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH ATLANTIC STATION, L.L.C., OWNER OF REAL PROPERTY LOCATED ON THE NORTH SIDE OF 16TH STREET BETWEEN STATE STREET, N.W. AND FRANCIS STREET, N.W., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH PARTIALLY EXTENDS ONE-THIRD OF ONE FOOT INTO THE PUBLIC RIGHT-OF-WAY RUNNING ALONG THE NORTH SIDE OF 16TH STREET FOR APPROXIMATELY TWO HUNDRED FIFTY EIGHT (258) FEET; AND FOR OTHER PURPOSES.

WHEREAS, Atlantic Station, L.L.C., a Delaware limited liability company (hereinafter "Atlantic Station"), owns that certain commercial real estate parcel depicted as "R-14" on that certain Conceptual Master Plan for Atlantic Station® dated August 2004, attached hereto as Exhibit "A" and incorporated herein by this reference, which land is adjacent to 16th Street between State Street, N.W. and Francis Street, N.W. in Atlanta, Georgia; and

WHEREAS, it has been determined that a portion of a presently existing boundary wall (hereinafter "Wall") currently owned by Atlantic Station and running along the full length of a parking deck on Parcel R-14, adjacent to 16th Street, extends approximately one-third of a foot into the public right-of-way for a distance of approximately two hundred fifty eight (258) feet; and

WHEREAS, the City's Code of Ordinances, at Sections 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and Atlantic Station for authorization to allow the Wall to remain in the public right-of-way and for authorization for Atlantic Station to continue to maintain the Wall that is in the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the Wall will not adversely impact the ability of the affected right-of-way to handle vehicular or pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, Atlantic Station desires to continue to maintain the presently existing Wall in the public right-of-way; and

WHEREAS, Atlantic Station has agreed to conform to the conditions set out in the Atlanta City Code of Ordinances at Sections 138-22 and 138-24.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for

Nonconforming Uses, as outlined in Section 138, Article II, of the City's Code of Ordinances with Atlantic Station for the purpose of granting to Atlantic Station the right to install and the obligation to thereafter maintain a boundary wall in the public right-of-way along a portion of the street frontage along the north side of 16th Street between State Street, N.W. and Francis Street, N.W. in Atlanta, Georgia as depicted on Exhibit "B" attached hereto, in a form and pursuant to conditions determined by the Commissioner of the City's Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interests of the City of Atlanta for this transaction.

BE IT FURTHER RESOLVED, that the plans and specifications for said Wall shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that Atlantic Station shall indemnify the city for any damages to persons or properties resulting from the erection and maintenance of said Wall.

BE IT FURTHER RESOLVED, that Atlantic Station shall comply with the conditions set out at Sections 138-22 and 138-24 of the City's Code of Ordinances.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an encroachment agreement, acceptable as to form, for execution by the Mayor and Atlantic Station.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the agreement has been approved as to form by the City Attorney, signed by the Mayor, executed by the City Clerk, and delivered to Atlantic Station.

tabbles®

EXHIBIT



SURVEY NOTES

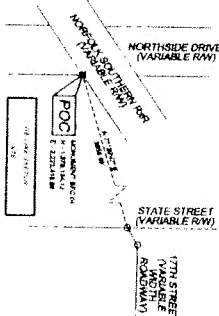
1. **WATER** is the most important factor in determining the success or failure of a seedling. The seedling must have enough water to grow and develop. If the seedling is in a dry area, it will not grow. If the seedling is in a wet area, it will grow. The seedling must have enough water to grow and develop. If the seedling is in a dry area, it will not grow. If the seedling is in a wet area, it will grow.

LEGEND

[illegible]

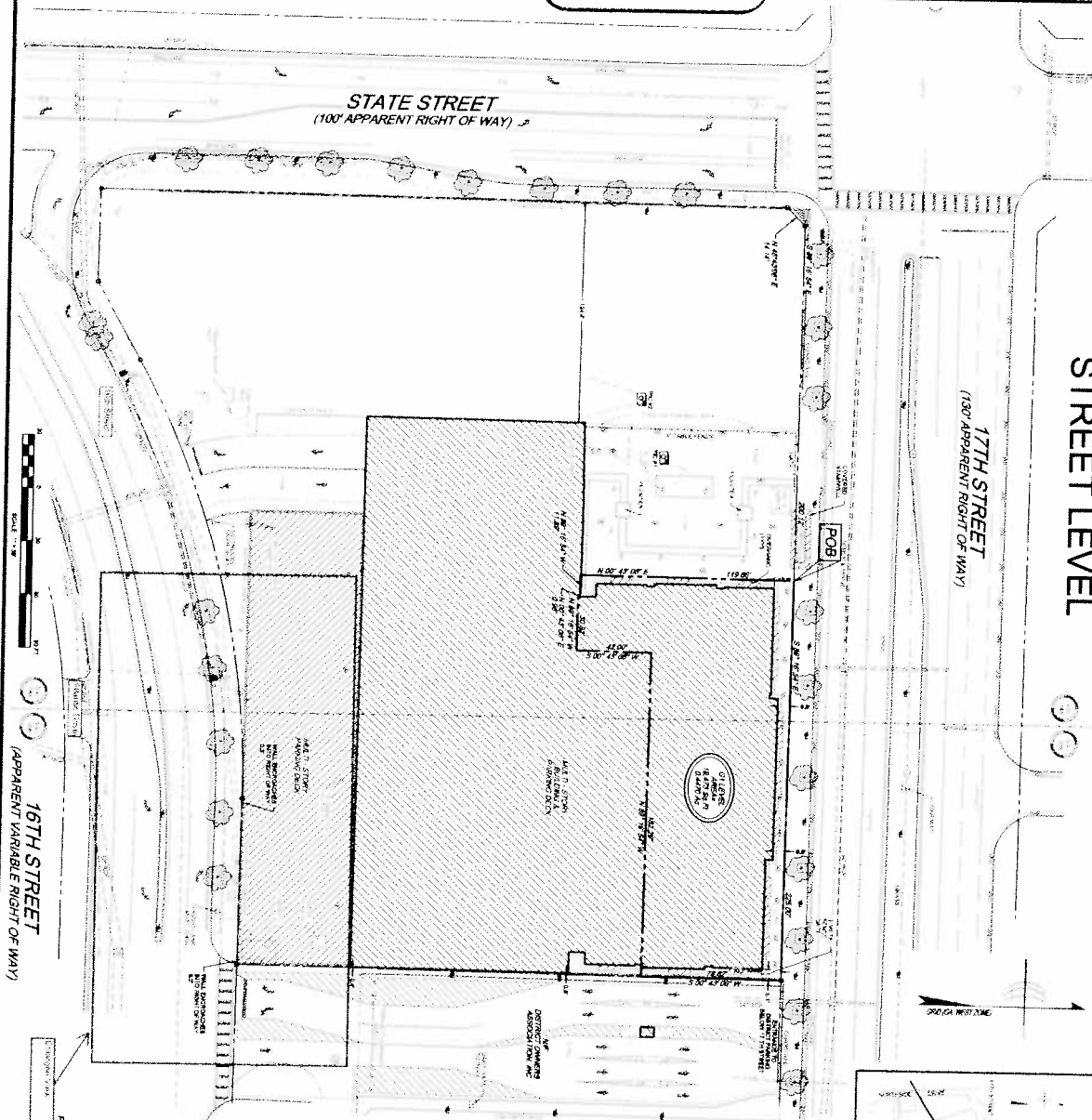
REFERENCE MATERIAL

1. TO OBTAIN THE SAFETY FOR THE WORK GROUP
PREPARED BY THE EMPLOYER AND EMPLOYER
ON THE DAY 1. 2020

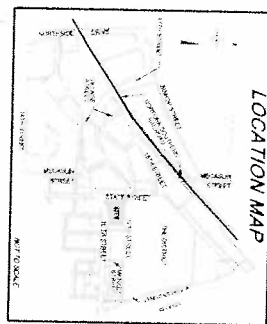


STREET LEVEL

177TH STREET
"APPROXIMATE RIGHT OF WAY"



LOCATION MAP



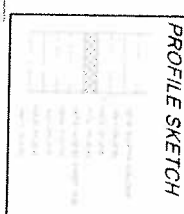
PICTURE #1



PICTURE #2



PROFILE SKETCH



THE ORIGINAL OF THIS DOCUMENT
WAS SIGNED AND SEALED BY
PAUL B CANNON, RLS GEORGIA PRECOMMITTED NO 2000
THIS REPRODUCTION IS NOT
A CERTIFIED COPY

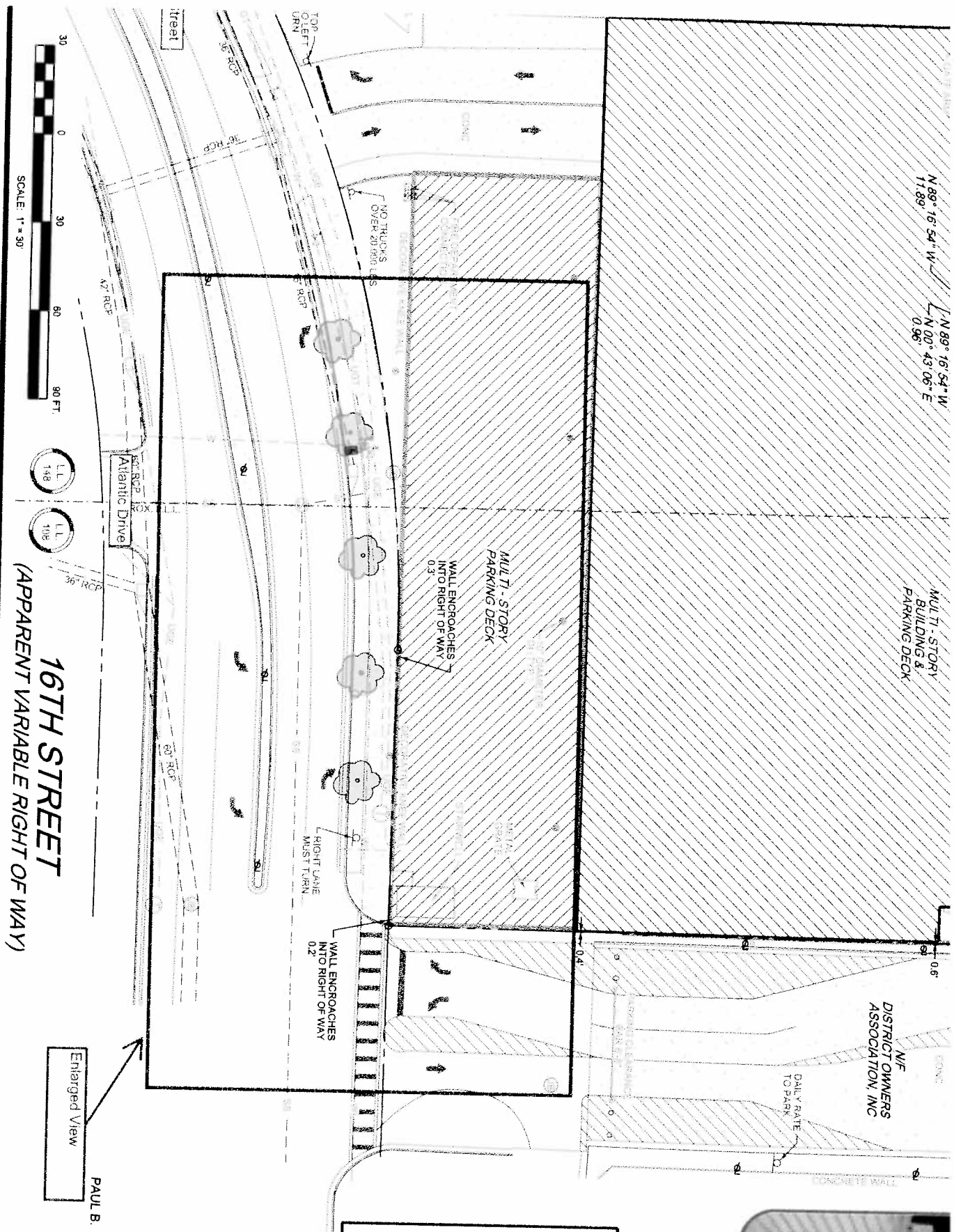
SHEET NO. 2/12
7/24/87

ALTA/ACSM LAND TITLE SURVEY
FOR
THE NOVARE / ATLANTIC DEVELOPMENT LLC
CHICAGO TITLE INSURANCE COMPANY
& CORUS BANK N.A.
LOCATED IN
LAND LOTS 108 & 148, 17TH DISTRICT
FULTON COUNTY, GEORGIA

Project No.	2008-2010	Age	Age date	Time
Baseline Data	00	21		
		22		
Domesticity	1.00	23		
		24		
Apprentice No.	100	25		
		26		
Date	00/00/00	27		
		28		
Age	1.00	29		

TerraMark
Professional Land Surveying

TERRAMARK LAND SURVEYING, INC.
245 South Curran Road, Suite A-2
Villa Rica, GA 30780
Phone No. (770) 421-1822
Fax No. (770) 941-1147
www.terramark.com



Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH ATLANTIC STATION, L.L.C., OWNER OF REAL PROPERTY LOCATED ON THE NORTH SIDE OF 16TH STREET BETWEEN STATE STREET, N.W. AND FRANCIS STREET, N.W., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH PARTIALLY EXTENDS ONE-THIRD OF ONE FOOT INTO THE PUBLIC RIGHT-OF-WAY RUNNING ALONG THE NORTH SIDE OF 16TH STREET FOR APPROXIMATELY TWO HUNDRED FIFTY EIGHT (258) FEET; AND FOR OTHER PURPOSES.

Council Meeting Date: May 3, 2010

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to enter into an Encroachment Agreement for non-conforming uses with Atlantic Station, LLC., for the purpose of permitting an existing boundary into the public right-of-way along 16th Street.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

(a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**

(b) **Source Selection:**

(c) **Bids/Proposals Due:**

(d) **Invitations Issued:**

- (e) Number of Bids:**
- (f) Proposals Received:**
- (g) Bidders/Proponents:**
- (h) Term of Contract:**
- 4. Fund Account Center:**
- 5. Source of Funds:**
- 6. Fiscal Impact:**
- 7. Method of Cost Recovery:**

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE BYRD

Dept.'s Legislative Liaison: Cotena Carothers

Contact Number: (404) 330-6501

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: April 13, 2010

Anticipated Committee Meeting Date(s): April 27, 2010

Anticipated Full Council Date: May 3, 2010

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature: [Signature]

Chief Procurement Officer Signature: _____

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH ATLANTIC STATION, L.L.C., OWNER OF REAL PROPERTY LOCATED ON THE NORTH SIDE OF 16TH STREET BETWEEN STATE STREET, N.W. AND FRANCIS STREET, N.W., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH PARTIALLY EXTENDS ONE-THIRD OF ONE FOOT INTO THE PUBLIC RIGHT-OF-WAY RUNNING ALONG THE NORTH SIDE OF 16TH STREET FOR APPROXIMATELY TWO HUNDRED FIFTY EIGHT (258) FEET; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: [Signature] 4/13/10 Reviewed by: [Signature]
(date) (date)

Submitted to Council: _____